THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.1967 OF 1998

ORDER:

This writ petition is field aggrieved by the order passed by the 2nd respondent/Revenue Divisional Officer, Nizamabad, dated 29.10.1993 as confirmed on Revision by the 1st respondent/Joint Collector, Nizamabad by order dated 30.9.1997.

The facts, in brief, are as under:

The wife of the petitioner by name Manemma was the absolute owner of the land to an extent of Ac.1.35 gts situated in Sy.No.720/E and Ac.0.11 gts situated in Sy.No.671/3 of Nandipet village and Mandal, Nizamabad district.

On the death of Manemma in February, 1993, the 3rd respondent/Mandal Revenue Officer by order dated 29.10.1993 carried out the amendments to the entries in the revenue records in favour of the 4th respondent, who is the daughter of Manemma under the provisions of the A.P. Rights in Land and Pattedar Pass Book Act, 1971 (for short "the Act). In the year 1996, the writ petitioner raised a dispute as to the said amendment and made a representation before the 3rd respondent claiming that he being the only legal heir of late Manemma is entitled to succeed to the entire property belonging to late Manemma and, therefore, the mutation affected in favour of the 4th respondent vide proceedings dated 29.10.1993 is illegal. On a reference made by the 3rd respondent, the said matter was enquired into by the 2nd respondent/Revenue Divisional Officer and an order was passed on 30.9.1997 holding that the unregistered document produced by the 4th respondent cannot be relied upon to establish the title claimed by the 4th respondent. It was also held

by the 2nd respondent that the rival claims made by the writ petitioner and the 4th respondent required to be decided by the competent civil Court and, accordingly, while leaving it open to the parties to take appropriate steps, it was ordered that till such time *status quo* shall be maintained by both the parties with regard to possession of the land in question. Aggrieved by the same, the writ petitioner preferred a Revision Petition before the 1st respondent/Joint Collector. The said revision was dismissed by order dated 30.9.1997 conforming the order of the 2nd respondent. Hence, this writ petition contending *inter alia,* that the order of the 3rd respondent dated 29.10.1993 effecting the mutation in the revenue records in favour of the 4th respondent, which was made without following the procedure prescribed under Section 4 as well as Section 5(3) of the Act, is arbitrary, illegal and unsustainable.

I have heard the learned counsel for both the parties and perused the material on record.

It is not in dispute that the writ petitioner and the 4th respondent are the husband and daughter respectively, of late Manemma. Whereas the 4th respondent claimed that she acquired title to the property in question on the death of her mother by virtue of a settlement deed dated 29.5.1981, the writ petitioner contended that the 4th respondent was given in adoption long back to one Ambadas Rao and a registered adoption deed was executed to that effect and, therefore, the 4th respondent cannot claim any right in the property left behind by late Manemma. It is also alleged that the unregistered document produced by the 4th respondent has no legal sanctity and cannot be relied upon.

It is true that under Section 5 of the Act, the 3rd respondent, where he has reason to believe that an acquisition of any right has

taken place

by any person, after making the necessary enquiry, may determine as to whether the record of rights may be amended. However, in the instant case, the rival claims made by the writ petitioner and the 4th respondent with regard to the property belonging to late Manemma involve several disputed questions of fact and law, which require consideration by the competent civil Court on appreciation of the evidence that may be produced by the parties in support of their respective claims. The respondents 1 to 3 while exercising the powers under the provisions of the Act cannot be expected to declare the title of the rival parties, particularly when the validity of the document relied upon by the 4th respondent itself was in dispute. Hence, the respondents cannot be said to have committed any error in holding that it is for the parties to take the necessary steps before competent civil Court for appropriate reliefs. The respondents 2 and 3 have also protected the interest of both the parties by directing that *status quo* shall be maintained till such determination is made by the competent civil Court. The said orders are in accordance with the settled principles of law and do not suffer from any infirmity.

The decision of the Supreme Court in **State of Karnataka v. K. V. Khadar**[1], cited by the learned counsel for the petitioner is clearly distinguishable on facts and, therefore, the ratio laid down therein is not applicable to the case on hand.

Accordingly, the writ petition is dismissed, leaving it open to the petitioner as well as the 4th respondent to work out appropriate remedy before the competent civil Court. Till such time, *status quo* as ordered by the respondents 1 and 2 shall be maintained. No costs.

G. ROHINI, J.

14th March, 2007.
Kgr

THE HON'BLE Ms. JUSTICE G. ROHINI

W.P.No.1967 of 1998

DATED:14-03-2007

Between:

V. Gangaram. ..Petitioner.

And

The Joint Collector, Nizamabad
District and others. ...Respondents.

[1] AIR 1990 SC 1245.